

POLAR Broadcasting

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December 18, 1991

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Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

To: The Commission

RE: COMMENTS DOCKET NO. 87-268

Federal Communications Commission
Office of the Secretary

Please find enclosed Polar Broadcasting, Inc.'s, formal COMMENTS to Docket No. 87-268. Polar Broadcasting has prepared the attached COMMENTS on it's own behalf.

Nine copies of the COMMENTS have been supplied so each Commissioner may receive a personal copy.

Sincerely,


Warren L. Trumbly
President

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DEC 19 1991

Before the
Federal Communications Commission
Washington, D.C. 200554

Federal Communications Commission
Office of the Secretary

In the Matter of)
Advanced Television Systems)
and Their Impact upon the)
Existing Television Broadcast)
Service)

COMMENTS RE: to
MM Docket No. 87-268

Released November 8, 1991

COMMENTS BY
POLAR BROADCASTING, INC.

December 18, 1991

1. The following comments are filed in response to the COMMISSION'S request for comments in Docket No. 87-268, regarding ATV systems and the questions and proposed solutions to the five fundamental aspects of the ATV plan.

2. The response is formatted to correlate with the Docket's major headings for clarity and simplification.

I. BACKGROUND: FIVE ASPECTS OF ATV SYSTEM

3. The COMMISSION seeks comments on five fundamental aspects¹ of the ATV plan outlined in the Docket. Several of the aspects present major obstacles which are a concern and will be addressed in this reply.

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1. WHO SHOULD INITIALLY BE ELIGIBLE FOR ATV FREQUENCIES;
 2. HOW WE SHOULD ALLOT AND ASSIGN ATV CHANNELS TO ELIGIBLE APPLICANTS;
 3. HOW WE SHOULD RESOLVE CERTAIN SPECTRUM ISSUES INVOLVING THE NONCOMMERCIAL RESERVE, LOW POWER AND TRANSLATOR STATIONS, AND BROADCAST AUXILIARY SERVICES;
 4. HOW WE SHOULD REGULATE THE "CONVERSION" FROM NTSC TO ATV; AND
 5. WHETHER WE SHOULD REQUIRE SOME TRANSITIONAL SIMULCASTING IN ATV AND NTSC DURING THE CONVERSION PERIOD.

II. ELIGIBILITY AND RELATED ISSUES

A. Initial Eligibility

4. We concur with the COMMISSION'S efforts to maintain uniformity of programming and control during the transition period, and agree that ATV represents a major change in broadcast technology.

5. INCUMBENT BROADCASTERS provide service to their community of license in various forms, including full-service, translator or low power. In many areas, low power television is the only local service, and in metropolitan areas it may be the only local minority programming service available.

6. If translators and LPTV are excluded from ATV service, substantial arguments could be put forth that the COMMISSION was indeed by it's exclusion of translators, LPTV, and satellite stations "LAUNCHING A NEW AND SEPARATE VIDEO SERVICE". Only by including all over-the-air television broadcast stations can the COMMISSION be true to the intent of "improving existing broadcast service and the benefits that this service delivers to the public,".

7. We propose that all stations become initially eligible for ATV channels as follows: (in order of priority)

- (1) full-service television broadcast station licensees,
- (2) satellite station licensees, translators and LPTV station licensees,
- (3) all full-service permittees authorized as of the date of adoption of this notice,
- (4) all permittees of satellite stations, translators, and Low Power Television stations,
- (5) all parties with applications for constructions on file as of the date of adoption of this notice,

8. The stations listed in (2) through (5) above should also be allocated an ATV channel to implement the smooth transition the commission is seeking. The station could be identified as an LPATV, and have similar power restrictions with regulations under Part 74 of the rules, similar to the current LPTV operation.

9. Many full-service stations serve multiple translators. By accommodating translators and LPTV stations within the master ATV plan, the COMMISSION would prevent television blackouts in rural, metropolitan ethnic, and religious communities. This would also assist in expediting the transition to ATV without interruption of service and/or abrupt changes in the type of service being delivered.

10. As proposed, ATV would negatively affect large portions of the American television public, and severely impact the American rural public. If ATV is to be thrust upon television viewers, through the sweeping changes being proposed by the COMMISSION; the COMMISSION should not overlook millions of Americans in the rural and metropolitan communities that receive their primary viewing via **SATELLITE STATIONS, TRANSLATORS, AND LOW POWER TELEVISION STATIONS**. Millions of viewers depend upon these stations for minority, specialty, educational, and religious programming.

11. THEREFORE, it is in the best interest of the American public to have ALL, existing television services "GRANDFATHERED", with the option to file for an ATV channel.

12. This would be a smooth and logical transition for the viewing public, conforming to the COMMISSIONS "goal..not to launch a new and separate video service" but "...to preserve and improve existing broadcast service and the benefits that this service delivers to the public," (as noted in paragraph 5 of Docket 87-268 and footnotes 7 and 8).

B. Unrestricted Eligibility

13. Prior to lifting the restrictions for "any qualified applicant" to apply for an ATV frequency, all LPTV and translator licensees, and permittees should be provided the option to upgrade their LPATV (Low Power ATV) facilities to a full-service ATV license by filing within a specified time period.

14. The LPTV licensee has put substantial investment of time and money in the limited use of the spectrum. The LPTV operator has done this at the risk of secondary interference status, thus putting his investment at risk not only from the market, but from the COMMISSION's future actions. The LPTV licensee "MERITS" this opportunity based upon previous performance as a licensee. This would be consistent with case law where the COMMISSION has restricted eligibility to particular classes or entities (i.e. the telephone industry's eligibility for a block of cellular telephone spectrum to wireline).²

² This is consistent with the COMMISSIONS authority as noted in paragraph 7 of Docket 87-268 (footnotes 13, 14, 15, 16, 17, 18, 19, and 20) in establishing threshold standards that limit eligibility to a class of one.

C. Application and Construction Periods

15. The three year period for filing on an ATV allotment would be a hardship on stations, and the two-year construction period would be highly improbable. Locating transmission sites and constructing buildings and towers are major difficulties. Other questions need to be addressed.

16. Has the COMMISSION made provision for additional STL and TSL microwave frequencies for broadcast use? Microwave spectrum is limited and each new ATV station will need a method of delivering a signal to the transmitter. Other concerns are as follows:

1. RFR restrictions as specified by EPA
2. Available transmitter and antenna space.
3. Equipment availability from manufactures; equipment will not be designed until a standard is selected.
4. How many years will it be before video and RF transmitting equipment is available?
5. With the new demand, what will be the delivery period? (RF equipment is not an off the shelf item).

17. A substantial number of new broadcast electronic sites will have to be developed. The delays by local planners, city and county councils, the FAA, and environmental groups would delay securing transmission sites from three to seven years. The ATV application would then follow.

18. Therefore, the schedule the COMMISSION put forth (three years to apply and two years to construct) is optimistic at **best**.

19. Because of the changes required for ATV, the COMMISSION should relax its rules and allow for the renewal of ATV construction permits based upon finances, especially considering the current economic environment. The economic pressures of ATV will increase the number of stations forced into receivership.

III. INITIAL ASSIGNMENT OF ATV CHANNELS

20. The interference "TABOO" channels will be available for assignment. Therefore, using the UHF Mileage Separations Table outlined in Table IV of sec. 73.698, the assigning of a preselected ATV channel for each NTSC channel would simplify the application process and avoid conflicts which could delay implementation of ATV service.

21. The channels for each ATV station would be on the "taboo" channel for that station. This would shift table of assigns from the NTSC channel to an ATV channel. For example, using the NTSC picture image (+15 channels)³, channel 14 would have an ATV channel 29, and channel 30 would be on ATV channel 45. Following that same line, channel 54 would use ATV channel 69, and channel 55 would use ATV channel 14.

22. The 12 VHF channels could be disbursed throughout the available channels, with channels 2-5 allocated between ATV channels 14 and 24, channels 5-7 allocated between ATV channels 24 and 34, channels 7-10 allocated between ATV channels 34 and 44, and channels 10-13 allocated between ATV channels 44 and 54. ATV channels 54 to 69 would be held for displacements of all VHF, translator and low power channels.

23. If there was a conflict with a co-channel ATV-NTSC, then shift the ATV channel ± 1 channel; if there is still a conflict then shift ± 2 channels.⁴

24. This procedure would prevent conflicts in the application process, avoiding unnecessary delays, and simplify the process for both the station and the COMMISSION.

Financial qualifications

25. Imposing financial qualifications for existing broadcasters for an ATV application would correspond to the COMMISSION imposing financial qualifications for license renewal. This is not "...a new and separate video service." If it were, then financial qualification would be an issue.

³ The picture image has the maximum mileage separation of 75 miles. This would reduce the conflicts within major markets and the surrounding markets.

⁴ This would conform to the COMMISSION'S comments of treating all ATV channels as equivalent, and be without prejudice. In effect it creates paired channels.

IV. SPECTRUM ISSUES

26. Removal of the frequency "taboos" for ATV should make ATV channels available for LPTV and translator stations seeking to advance the new technology.

27. The release of all UHF frequencies held for proposed land mobile use⁵, and the release of channel 37⁶ in major markets would provide additional channels during the NTSC to ATV transition period when they would be most needed.

LPTV and Translator Services

28. LPTV stations can be of substantial assistance in the advancement of ATV. LPTV's ability to operate at a lower cost could be significant in initially providing early ATV service. In many areas, LPTV could quickly adapt to rebroadcast a satellite-fed ATV signal. This would open the marketplace in establishing beginning viewership of ATV. With a wider variety of programming, viewership would be stimulated. Audience development is necessary for the economic development of ATV.

29. Full-service broadcasters and the COMMISSION should consider LPTV as a viewer and economic "ice breaker", and a fairly quick and economical method of bringing ATV programming to the American public. The flexible nature of LPTV, in programming, operating schedule and reduced operating cost, is ideal for the introduction of ATV service in many areas.

30. LPTV has proven itself, through creativity and persistence, with nearly one thousand operating stations. During the past five years, five full time LPTV networks⁷ have been developed to provide programming primarily for LPTV. During the same period, one full-service part-time network was initiated, FOX.

31. The use of LPTV in implementing ATV is consistent with the COMMISSION'S objective of quick introduction of the new technology. Even with the restricted transmitter power under which LPTV operates, LPTV - ATV would be effective and would have little or no economic impact on current NTSC channels.

⁵ Cellular telephone has relieved pressure on land mobile. By allocating channels withheld from broadcast by proposed rule making, sufficient frequencies will be available for ATV.

⁶ Reserved for Radio Astronomy

⁷ Channel America, Family Net, Home Shopping Spree, Value Vision, Video Juke Box, and BE-TV.

32. Until a significant amount of programming and a large number of receivers are in the market, viewership on ATV will suffer and will not be economical. LPTV would provide a wider variety of programming to build the audience necessary for ATV's economic development.

33. By allowing LPTV stations to file and use an ATV channel (LPATV) the COMMISSION will encourage viewership, thereby expediting the economic viability for all broadcasters.

34. In the event of a displacement of an LPTV or translator station, it would be in the public interest to allow the LPTV station being displaced to operate until five days prior to the ATV station commencing operation.

35. In lieu of LPTV stations going dark, it would serve the public interest (and the COMMISSION'S agenda) to allow the LPTV to file a displacement application for operation as a LPATV station.

36. LPATV frequencies will be available, but unusable for full-service stations due to the mileage spacing requirements, as is the current situation for LPTV.

37. As suggested by the COMMISSION, the use of terrain shielding would be applicable in protecting an ATV to ATV co-channel and an ATV to LPATV co-channel on a non-interfering basis.

Respectfully submitted,
Polar Broadcasting Inc.


Warren L. Trumbly
President

1080 Los Molinos Way
Sacramento, CA 95864
(916) 487-3932

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